

# **Report of the Verband Deutscher Drehbuchautoren e.V. / German Screenwriters' Guild 2010**

## **For the FSE General Assembly 2011**

In 2010 the main area the guild had to take care of was – as in the years before – the **collective agreement negotiations** with the public broadcasters that were started more than seven years ago (!!). Main task from summer 2010 on was to form a new alliance.

The revision of the **German State Aid Legislation** (FFG) resulted in, as reported, better conditions for the scriptwriters. But as the institution FFA is under revision (to put it mildly) the German funding situation (as well as the situation concerning the digital rollout) is difficult. However the FFA earned a small victory most recently through a positive court decision.

### Concerning the collective agreement negotiations based on the “new” copyright law:

As reported, there had been a turning point in the negotiations in 2008. The VDD was able to persuade the politicians to add in „Protokollnotiz“ of the new “Rundfunkänderungsstaatsvertrag” (a law which governs public state broadcasting) a clause that forces the public broadcasters to make sure that also the creators, that is writers and directors, are fairly compensated.

The VDD is still in negotiations with the public broadcaster ZDF (and they still do not want to call it “negotiations” or “agreement”, the VDD decided not to put any effort into discussing the name of the deal but to continue), which the ARD and the Produzentenallianz (the producers alliance) has joined partly. The meetings had been taking place almost monthly for a very long time. Then, in summer 2010 it was clear that the ZDF's offer was not acceptable: it would have meant a cutdown of approx. 25%.

The VDD board decided to „take a break“ and use that for doing more research concerning the fees situation as well as trying to establish an alliance – either with other authors (in the sense of „creators“ like directors and composers) or with other institutions that represent screenwriters. The later proved to be the one that promised more success. From December on the VDD collaborates with the VdB (Verband Deutscher Bühnen- und Medienverlage e.V. - Theatre and Media Publishers' Guild) and the VdA (Verband der Agenturen – Agencies' Guild), the first step is to develop a new contact and fee structure scheme.

### German state aid law (FFG):

As reported, in February 2009 there was a dramatic development:

The future financing of the German Federal Film Board (FFA) was put into jeopardy, after the German Administrative Court ruled unexpectedly that the national funding institution's cinema levy is not constitutional.

According to the German Film Law (FFG) cinema owners are required to pay a levy of between 1.8% and 3% of the annual gross turnover made on each cinema screen, as long as the lower threshold of \$95,175 (Euros 75,000) gross turnover is reached.

In response to a case submitted by the UCI/Kinowelt cinema group (now owned by an Australia based global conglomerate) and five other exhibitors, the Leipzig-based court stated that the FFG was justified in principle in requiring that the exhibitors, video industry and broadcasters make contributions to the national film fund since they all profited from the projects supported by the FFA. However, it pointed out that the FFG, that is the legislation which determines cinema state aid in Germany, was unconstitutional since all three groups were not being treated equally on the issue of the levies. Whilst the level of the levies to be paid by the exhibitors and video industry is written into the Film Law, the broadcasters have always been able to negotiate voluntary payments to the FFA.

The exhibitors, who have contributed around \$24m (Euros 19m) annually to the FFA's Euros \$88m (70m) budget, argue that the films supported by the FFA are not commercial enough. On the other hand the FFA is obliged to fund culture because of European law. How to serve both masters? This example may show what lies ahead of us in terms of the present film funding system.

In a response to the Administrative Court's ruling, the FFA (in existence for 40 years now) said that it would now be "working closely with the Federal Commissioner for Culture and Media to present all the arguments for the maintenance of the levy system and examining, together with partners from politics and the film industry, solutions which will secure the existence of the national film funding in Germany on a permanent basis." The Administrative Court has then referred the case to the Federal Constitutional Court in Karlsruhe to decide on the Film Law's constitutional nature.

The BKM (Ministry of Culture) had to undertake a so-called "small revision" of the Film Funding Law in order to cover some of the requirements. Main aspect was new rules for the contributions of the broadcasters.

**A Federal Court decision was then published on February 23, 2011 (Leipzig):  
The Film State Aid Law (FFG) and therefore the Federal Film Board (FFA) are recognised as constitutional.**

**This means that the cinema owners case is finally dismissed. To be continued...?**

#### The conversion of German cinemas to digital technology

"Germany lags behind in the digital race. Unlike countries such as England, where exhibitors have been rapidly upgrading their equipment, the digital rollout in Germany has been bogged down by fights between distributors, cinema owners and film funding bodies over who will pay for it. The Film Board hopes its cash will help kick-start digitalization. But the FFA said it would only be able to pay out if multiplex owners Cinestar and UCI, as well as other smaller theater chains, drop their ongoing suit against the FFA."

(Hollywood Reporter 2009)

The situation is still almost the same and rather difficult. The German Government and some funding bodies started to fund cinema-owners in their efforts concerning the installation of digital technology. But the "ultimate decision" of how and when the funding of the digital rollout will take place will be decided end of March 2011 by the FFA Board of Directors.

### Development Funding

The VDD has conducted a survey amongst authors that received grants by the FFA. The results can, at least partly, be presented at the GA in March.

### **More news:**

- more and more politicians realize the importance of the protection of intellectual property
- The new copyright law, the so called "3. Korb", the third part of the revision, is currently being discussed (The VDD has invited members of the German Parliament to the discussion on March 23, 2011).
- The usual VDD Berlinale reception has become more important as since 2009 it is combined with the "unfilmed screenplay award ceremony" which is being given each year by the minister of culture Bernd Neumann
- other events: in 2011 the VDD organized 3 workshops organized in cooperation with the EKD (Protestant Church of Germany) and a lecture by showrunner Tom Fontana.
- The "German Academy for Television" was founded in December 2010, one of the founding members is also on the VDD Board.

Christina Kallas  
Katharina Uppenbrink

Berlin, March 2011